Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

- versus -

EMETERIA G. LUALHATI,
Respondent.

G.R. No. 183511

VELASCO, JR., *J.*, *Chairperson*,
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, *JJ.*

Promulgated:

March 25, 2015

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DECISION

PERALTA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision[1] and Resolution,[2] dated March 31, 2008 and June 18, 2008, respectively, of the Court Appeals (*CA*), which affirmed the Decision[3] dated October 4, 2005 of the Regional Trial Court (*RTC*) in LRC Case No. 04-3340.

The antecedents are:

On August 12, 2004, respondent Emeteria G. Lualhati filed with the RTC of Antipolo City an application for original registration covering Lots 1 and 2 described under Plan Psu-162384, situated in C-5 C-6 Pasong Palanas,

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1 Penned by Associate Justice Mariano C. Del Castillo (now a member of the Supreme Court), with Associate Justices Arcangelita Romilla-Lontok and Ricardo R. Rosario, concurring; Annex "A" to Petition, *rollo*, pp. 30-38.

2 *Id.* at 39.

3 Penned by Judge Francisco A. Querubin, *id.* at 57-62.

Sitio Sapinit, San Juan (formerly San Isidro), Antipolo, Rizal, consisting of an area of 169,297 and 79,488 square meters, respectively. Respondent essentially maintains that she, together with her deceased husband, Andres Lualhati, and their four children, namely: Virginia, Ernesto, Felicidad, and Ligaya, have been in possession of the subject lands in the concept of an owner since 1944.[4]

In support of her application, respondent submitted the blueprint of the survey plan and the tracing cloth plan surveyed at the instance of Andres Lualhati and approved by the Director of Lands in October 1957, the certified true copy of the surveyor's certificate, the technical descriptions of Lots 1 and 2, Tax Declaration No. 26437 issued in the name of Andres Lualhati, which states that the tax on the properties commenced in 1944, the real property tax register evidencing payment of realty taxes on the subject properties from 1949 to 1958, certifications from the Department of Environment and Natural Resources (*DENR*), Region IV, City Environment and Natural Resources Office (*CENRO*), Antipolo City, that no public land application/land patent covering the subject lots is pending nor are the lots embraced by any administrative title, and a letter from the Provincial Engineer that the province has no projects which will be affected by the registration.[5]

Moreover, respondent presented several witnesses to prove her claim, the first of which was respondent herself. She testified that she and her late husband have been occupying the subject lots since 1944. Since then, she stated that she and her husband, together with their four children, have tilled the soil, planted fruit-bearing trees, and constructed their conjugal house on the subject properties, where all four of her children grew up until they got married. She identified the owners of the adjoining lands and attested that the subject lots are alienable and disposable.[6]

Respondent next presented her 65-year old son-in-law, Juanito B. Allas, who testified that he first visited the subject properties during the time when he was courting respondent's daughter whose family was already in possession thereof; that his subsequent visits were when he would accompany his father-in-law to the said lots for the entire afternoon to plant fruit-bearing trees such as mango, coconut, jackfruit; that his parents-in-law cleared the lots and uprooted its grasses; that he knows the adjoining owners of the subject lots; that he does not know of any other person with any interest adverse to that of his in-laws; and that respondent has been in actual possession of the properties publicly, openly, and in the concept of an owner for more than 30 years.[7]

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4 *Id*. at 31.
5 *Id*. at 31-32; 59-60.
6 *Id*.
7 *Id*. at 33 and 60.

Thereafter, respondent presented her husband's *compadre*, Aurelio Garcia, who attested that he had been friends with Andres Lualhati since 1964; that respondent and Andres planted various fruit-bearing trees such as mango, cashew, coconut, and jackfruit, and erected their conjugal house thereon; that he and Andres would usually have drinking sprees on the properties; that he regularly visited the subject lots from the time he became friends with Andres until his death in 1982; that the last time he visited was in 2000; and, that the real property taxes were paid from 1949-1958.[8]

Finally, respondent presented another close friend, Remigio Leyble, who similarly declared that he had been friends with respondent and her spouse since 1950 and that ever since then, he had known them to be the owners of the lots in question; that the spouses told him that they had been sojourning thereon since 1944; that they were the ones who planted the fruit-bearing trees as well as constructed the conjugal house thereon; that he would usually join them in planting said trees; that he was actually present at the time when the lots were surveyed in 1957; that the lots were declared for taxation purposes even before the same was surveyed; and, that he does not know of any other person claiming or owning the subject properties other than respondent and her family who are constantly managing and improving the same.[9]

On October 4, 2005, the RTC granted respondent's application finding that she had been in open, public, continuous, exclusive, adverse, and notorious possession and occupation of the lands for more than 50 years under a *bona fide* claim of ownership even prior to June 12, 1945, as required under Section 14 (1) of Presidential Decree (*PD*) No. 1529, otherwise known as the *Property Registration Decree*.[10]

In its Decision dated March 31, 2008, the CA affirmed the ruling of the RTC, rejecting petitioner's contention that respondent failed to overcome the burden of proving her possession of the subject lots in its entirety, the area being too big for respondent's family to cultivate themselves, and that even if they did, such can hardly suffice as possession, being a mere casual cultivation. The CA also rejected petitioner's averment that the tax declarations and realty tax payments are not conclusive evidence of ownership for they constitute at least proof that the holder had a claim of title over the property. According to the appellate court, the fact that respondent and her family cultivated the subject lands, erected their conjugal home, and paid real property taxes thereon, cannot be construed as a mere casual cultivation but an intention of permanently settling down therein.

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8 *Id*. at 34 and 60.
9 *Id*. at 34 and 61.
10 *Supra* note 3.

On August 11, 2008, petitioner filed the instant petition invoking the following arguments:

> I.
> RESPONDENT FAILED TO PROVE THE ALIENABLE AND DISPOSABLE CHARACTER OF THE LAND APPLIED FOR REGISTRATION.
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> II.
> RESPONDENT FAILED TO PROVE POSSESSION OVER THE PROPERTY APPLIED FOR REGISTRATION IN THE CONCEPT AND WITHIN THE PERIOD REQUIRED BY LAW.[11]

Petitioner contends that the appellate court failed to consider certain relevant facts which, if properly taken into account, will justify a different conclusion. *First*, petitioner posits that respondent did not present any evidence to show that the land sought to be registered is alienable and disposable land of public domain. In its Reply,[12] petitioner, citing our ruling in *Republic v. T.A.N. Properties*,[13] criticizes the probative value of the certifications submitted by respondent from the DENR-CENRO, Region IV, Antipolo City, that no public land application/land patent covering the subject lots is pending nor are the lots embraced by any administrative title as well as the letter from the Provincial Engineer that the province has no projects which will be affected by the registration. In said case, this Court held that a certification from the CENRO is insufficient to prove the alienability and disposability of lands.

Second, petitioner asserts that respondent failed to present sufficient evidence proving her claim of possession and occupation over the entire portion of the subject properties. Contrary to the findings of the courts below, respondent's planting of fruit-bearing trees, at best, constituted a mere casual cultivation of portions of the land which can hardly become sufficient basis for a claim of ownership. Other than planting trees and constructing their home, respondent failed to provide any other proof of acts of dominion over the subject land such as enclosing the property or constructing other improvements thereon considering the vastness of the same. In addition, petitioner points out that apart from a single tax declaration, there is nothing in the records which evince respondent's religious payment of real property taxes.

The petition is meritorious.

While it is true that this Court is limited to reviewing only errors of law, and not of fact, in petitions for review on *certiorari* under Rule 45,

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11 *Rollo*, p. 16.
12 *Id.* at 101-110.
13 578 Phil. 441 (2008).

when the findings of fact are devoid of support by the evidence on record, or when the assailed judgment is based on a misapprehension of facts, this Court may revisit the evidence in order to arrive at a decision in conformity with the law and evidence at hand.[14] In the instant case, the evidence on record do not support the findings made by the courts below on the alienable and disposable character of the lands in question.

Section 14 (1) of PD 1529, otherwise known as the *Property Registration Decree* provides:

> SEC. 14. *Who may apply*. - The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:
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> (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.

Thus, pursuant to the aforequoted provision, applicants for registration of title must prove that: (1) the subject land forms part of the disposable and alienable lands of the public domain; and (2) they, by themselves or through their predecessors-in-interest, have been in open, continuous, exclusive, and notorious possession and occupation of the same under a *bona fide* claim of ownership since June 12, 1945, or earlier.[15]

Under the *Regalian Doctrine*, which is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land, or alienated to a private person by the State, remain part of the inalienable public domain. The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration, who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.[16]

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[14] *Raquel-Santos v. Court of Appeals*, 609 Phil. 630, 655 (2009); *Fangonil-Herrera v. Fangonil*, 558 Phil. 235, 256-257 (2007).

[15] *Republic v. Dela Paz*, G.R. No. 171631, November 15, 2010, 634 SCRA 610, 619, citing *Mistica v. Republic*, 615 Phil. 468, 476 (2009), citing *In Re: Application for Land Registration of Title, Fieldman Agricultural Trading Corporation v. Republic*, 573 Phil. 241, 251 (2008).

[16] *Republic v. Medida*, G.R. No. 195097, August 13, 2012, 678 SCRA 317, 325-326, citing *Republic v. Dela Paz*, *supra*, at 621-622.

To support her contention that the lands subject of her application is alienable and disposable, respondent submitted certifications from the DENR-CENRO, Region IV, Antipolo City, stating that no public land application or land patent covering the subject lots is pending nor are the lots embraced by any administrative title.

Respondent's reliance on the CENRO certifications is misplaced.

In the oft-cited *Republic v. T.A.N. Properties*,[17] it has been held that it is not enough for the CENRO or the Provincial Environment and Natural Resources Office (*PENRO*) to certify that a certain parcel of land is alienable and disposable, to wit:

> **The certifications are not sufficient**. DENR Administrative Order (DAO) No. 20,18 dated 30 May 1988, delineated the functions and authorities of the offices within the DENR. Under DAO No. 20, series of 1988, the CENRO issues certificates of land classification status for areas below 50 hectares. The Provincial Environment and Natural Resources Offices (PENRO) issues certificate of land classification status for lands covering over 50 hectares. DAO No. 38, dated 19 April 1990, amended DAO No. 20, series of 1988. DAO No. 38, series of 1990 retained the authority of the CENRO to issue certificates of land classification status for areas below 50 hectares, as well as the authority of the PENRO to issue certificates of land classification status for lands covering over 50 hectares. In this case, respondent applied for registration of Lot 10705-B. The area covered by Lot 10705-B is over 50 hectares (564,007 square meters). The CENRO certificate covered the entire Lot 10705 with an area of 596,116 square meters which, as per DAO No. 38, series of 1990, is beyond the authority of the CENRO to certify as alienable and disposable.
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> **Further, it is not enough for the PENRO or CENRO to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. In addition, the applicant for land registration must present a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. These facts must be established to prove that the land is alienable and disposable. Respondent failed to do so because the certifications presented by respondent do not, by themselves, prove that the land is alienable and disposable.**
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> x x x. **The CENRO is not the official repository or legal custodian of the issuances of the DENR Secretary declaring public**

[17] *Supra* note 13.

> **lands as alienable and disposable. The CENRO should have attached an official publication of the DENR Secretary's issuance declaring the land alienable and disposable.**[18]

Accordingly, in a number of subsequent rulings,[19] this Court consistently deemed it appropriate to reiterate the pronouncements in *T.A.N. Properties* in denying applications for registration on the ground of failure to prove the alienable and disposable nature of the land subject therein. In said cases, it has been repeatedly ruled that certifications issued by the CENRO, or specialists of the DENR, as well as Survey Plans prepared by the DENR containing annotations that the subject lots are alienable, do not constitute incontrovertible evidence to overcome the presumption that the property sought to be registered belongs to the inalienable public domain. Rather, this Court stressed the importance of proving alienability by presenting a copy of the original classification of the land approved by the DENR Secretary and certified as true copy by the legal custodian of the official records.[20]

Thus, as it now stands, an application for original registration must be accompanied by: (1) CENRO or PENRO certification; and (2) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records, in order to establish that the land is indeed alienable and disposable.[21]

Here, respondent failed to establish, by the required evidence, that the land sought to be registered has been classified as alienable or disposable land of the public domain. The records of this case merely bear certifications from the DENR-CENRO, Region IV, Antipolo City, stating that no public land application or land patent covering the subject lots is pending nor are the lots embraced by any administrative title. Said CENRO certifications, however, do not even make any pronouncement as to the alienable character of the lands in question for they merely recognize the absence of any pending land patent application, administrative title, or government project being conducted thereon. But even granting that they expressly declare that the subject lands form part of the alienable and disposable lands of the public domain, these certifications remain insufficient for purposes of granting respondent's application for registration. As constantly held by this Court, it is not enough for the CENRO to certify that a land is alienable

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[18] *Republic v. T.A.N. Properties*, *id*. at 451-453. (Emphasis ours).

[19] *Republic v. Sese*, G.R. No. 185092, June 4, 2014; *Republic v. Remman Enterprises*, G.R. No. 199310, February 19, 2014*; Republic v. Aboitiz*, G.R. No. 174626, October 23, 2013, 708 SCRA 388; *People v. Capco de Tensuan*, G.R. No. 171136, October 23, 2013, 708 SCRA 367; *Republic v. Jaralve*, G.R. No. 175177, October 24, 2012, 684 SCRA 495; *Republic v. Medida*, *supra* note 16; *Republic v. Espinosa*, G.R. No. 171514, July 18, 2012, 677 SCRA 92; *Republic v. Hanover Worldwide Trading Corporation*, G.R. No. 172102, July 2, 2010, 662 SCRA 730; *Republic v. Dela Paz*, *supra* note 14; *Republic v. Roche*, 638 Phil. 112 (2010).

[20] *Id*.

[21] *Gaerlan v. Republic*, G.R. No. 192717, March 12, 2014, citing *Republic v. Medida*, *supra* note 15, at 328.

and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. Unfortunately for respondent, the evidence submitted clearly falls short of the requirements for original registration in order to show the alienable character of the lands subject herein.

In similar regard, the evidence on record likewise fail to establish that respondent, by herself or through her predecessors-in-interest, has been in open, continuous, exclusive, and notorious possession and occupation of the properties under a bona fide claim of ownership since June 12, 1945, or earlier.

The testimonies of respondent and her close friend, Remigio Leyble, insofar as they allege possession of the subject properties since 1944, fail to convince. The tax declaration submitted by respondent dates back only to the year 1947.[22] In fact, as the records reveal, said tax declaration is the oldest piece of documentary evidence submitted in support of the application. Hence, at best, the same can only prove possession since 1947. Other than the bare allegations of respondent and her witness, as well as the 1947 tax declaration, respondent did not present any other proof to substantiate her claim of possession beginning in 1944. Neither did she provide any explanation as to why, if she has truly been occupying the properties as early as 1994, it was only in 1947 that she sought to declare the same for purposes of taxation.

In addition to this, the real property tax register presented by respondent evidenced payment of realty taxes only from 1949 up to 1958. Consequently, this Court cannot concede to respondent's assertion that she had been adversely possessing the properties beginning in 1944 up until the filing of her complaint in 2004, or for a duration of sixty full years, when the evidence presented depicts payment of taxes for only nine years. Payment of realty taxes for a brief and fleeting period simply cannot be considered sufficient proof of ownership. It is clear, therefore, that respondent's assertion of possession before 1945 will not suffice for applicants for registration must present proof of specific acts of possession and ownership and cannot just offer general statements which are mere conclusions of law rather than factual evidence of possession.[23]

Furthermore, it bears stressing that tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when

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[22] *Rollo*, p. 36.

[23] *Valiao v. Republic*, G.R. No. 170757, November 28, 2011, 661 SCRA 299, 308-309, citing *Republic v. Carrasco*, 539 Phil. 205, 216 (2006) and *Republic of the Phils. v. Alconaba*, 471 Phil. 607, 620 (2004).

not supported by any other evidence. The disputed property may have been declared for taxation purposes in the names of the applicants for registration, or of their predecessors-in-interest, but it does not necessarily prove ownership. They are merely *indicia* of a claim of ownership.[24]

Moreover, as petitioner aptly points out, respondent failed to provide any other proof of acts of dominion over the subject land other than the fact that she, together with her husband and children, planted fruit-bearing trees and constructed their home thereon considering the vastness of the same. As enunciated in *Republic v. Bacas, et al*.:[25]

> A mere casual cultivation of portions of the land by the claimant, and the raising thereon of cattle, do not constitute possession under claim of ownership. In that sense, possession is not exclusive and notorious as to give rise to a presumptive grant from the State. While grazing livestock over land is of course to be considered with other acts of dominion to show possession, the mere occupancy of land by grazing livestock upon it, without substantial enclosures, or other permanent improvements, is not sufficient to support a claim of title thru acquisitive prescription.x x x.[26]

To repeat, the law requires open, exclusive, continuous and notorious possession by petitioners and their predecessors-in-interest, under a bona fide claim of ownership, since June 12, 1945 or earlier. Thus, it is imperative for applicants for registration of property to prove, by sufficient evidence, each requisite character and period of possession and occupation for the failure to do so will necessarily prevent the land from being considered *ipso jure* converted into private property even upon the subsequent declaration of the same as alienable and disposable.[27]

Hence, in view of respondent's failure in proving that: (1) the subject property was classified as part of the disposable and alienable land of the public domain; and (2) she and her predecessors-in-interest had been in open, continuous, exclusive, and notorious possession and occupation thereof under a bona fide claim of ownership since June 12, 1945 or earlier, this Court is constrained to reverse the assailed decisions and deny the application for registration in fulfilment of its duty to ensure that ownership of the State is duly protected by the proper observance by parties of the rules and requirements on land registration.[28]

WHEREFORE, premises considered, the instant petition is **GRANTED.** The Decision and Resolution dated March 31, 2008 and June 18, 2008, respectively, of the Court Appeals which affirmed the Decision

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24 *Id*. at 309-310, citing *Arbias v. Republic*, 587 Phil. 361, 374 (2008).
25 G.R. No. 182913, November 20, 2013, 710 SCRA 411.
26 *Republic v. Bacas, et. al.,supra,* at 437.
27 *Heirs of Malabanan v. Republic*, G.R. No. 179987, September 3, 2013, 704 SCRA 561, 585.
28 *Republic v. Medida, supra* note 16, at 331.

dated October 4, 2005 of the Regional Trial Court in LRC Case No. 04-3340 are **REVERSED** and **SET ASIDE.** The application for registration of title filed by respondent Emeteria G. Lualhati over Lots 1 and 2 consisting of an area of 169,297 and 79,488 square meters, respectively, situated in C-5 C-6 Pasong Palanas, Sitio Sapinit, San Juan, Antipolo, Rizal, is **DENIED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

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